

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TIMOTHY RUSH,

Defendant.

No. 14-CR-67-LRR

**ORDER SETTING SENTENCING
HEARING**

The court is in receipt of the Final Presentence Investigation Report for the above-entitled Defendant. In the report, the United States Probation Officer notes that one issue needs to be decided by the court. Pursuant to Federal Rule of Criminal Procedure 32, a sentencing hearing is set for **Wednesday, October 8, 2014 at 9:00 a.m.** at the Federal Courthouse, Courtroom 1, 111 7th Avenue SE, Cedar Rapids, Iowa. Thirty minutes have been reserved for this hearing.

IT IS ORDERED:

1. Defendant and counsel shall personally appear for sentencing and be at the courthouse at least ten minutes before the sentencing hearing is scheduled to commence.
2. If the issues noted in the presentence report have been resolved, the parties shall file a notice of the same at least **fourteen calendar days** prior to the hearing or, in the case of a late resolution, as soon as an agreement is reached.
3. In any case in which sentencing issues remain, **at least fourteen calendar days** prior to the hearing, the attorneys shall file the following with the Clerk and serve a copy on opposing counsel and the **United States Probation Office**:
 - a. A list of all witnesses counsel expects to call to testify at the sentencing hearing;

- b. A list of all exhibits counsel expects to offer at the sentencing hearing; and
 - c. A list of all sentencing issues counsel will ask the Court to decide, with a separate brief that contains a citation to all statutes, case law and guideline sections relied on in support of counsel's position.
- 4. If **any part of the guideline calculation** under the advisory guidelines is in dispute, the parties shall submit itemized and annotated statements of how they arrived at their figures. **Because the court is required to calculate an advisory guideline sentencing range in all cases, the parties must file sentencing memoranda containing legal authority to support each argument as to which specific offense characteristics and adjustments are applicable. If the parties agree as to the Total Offense Level but disagree about how the Total Offense Level was calculated, each party still must submit a detailed sentencing memorandum setting forth the differing positions and legal authorities.**
- 5. If the amount of restitution is at issue, the parties shall submit itemized and annotated statements (with any supporting documentation) explaining how they arrived at their figures.
- 6. At least **fourteen calendar days** prior to the hearing, counsel shall exchange exhibits marked with exhibit numbers in accordance with Local Rule 83.7.
- 7. In the event counsel expects to offer the testimony of in-custody witnesses, counsel shall provide a minimum of **twenty-one calendar days** notice to the United States Marshal.
- 8. In the event counsel wants the United States Marshal to serve subpoenas on witnesses, those subpoenas shall be delivered to the United States Marshal at least **twenty-one calendar days** in advance of the hearing date.
- 9. If a party does not file its sentencing memorandum in a timely manner or if a brief citing to legal authority is not filed, the court will consider the issues previously raised by the party in the party's

objections to the presentence report to be waived.

IT IS SO ORDERED.

DATED this 16th day of September, 2014.

A handwritten signature in black ink, appearing to read "Linda R. Reade", is written over a horizontal line.

LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA